

CHAPTER 457 NURSES

SECTION

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§457-1 Purpose. In order to safeguard life and health, any person practicing or offering to practice as a registered nurse or as a licensed practical nurse in this State for compensation, shall be required to submit evidence that the person is qualified to so practice, and shall be licensed as provided in this chapter. It shall be unlawful for any person not licensed under this chapter to practice or offer to practice nursing as a registered nurse or as a licensed practical nurse or to use any sign, card, or device to indicate that the person is a registered nurse or a licensed practical nurse.

§457-2 Definitions. As used in this chapter unless the content otherwise requires:

"Advanced practice registered nurse" means a registered nurse who has met the qualifications for advanced practice registered nurse set forth in this chapter and through rules of the board, which shall include educational requirements.

"Board" means the State board of nursing.

"Nurse" means a person licensed under this chapter or a person who holds a license under the laws of another state or territory of the United States that is equivalent to a license under this chapter.

“Telehealth” means the use of electronic information and telecommunication technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration, to the extent that it relates to nursing.

"The practice of nursing as a licensed practical nurse" means the performance of those acts commensurate with the required educational preparation and demonstrated competency of the individual, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include, but not be limited to, implementation of basic nursing procedures in the plan of care; or observing and caring for individuals at all levels of the health spectrum, giving counsel and acting to safeguard life and health and functioning as a part of the health care team, under the direction of a dentist, medical doctor, registered nurse, osteopath, or podiatrist licensed in accordance with chapter 448, 453, 457, 460, or 463E; or administration of treatment and medication as prescribed; or promotion of health maintenance of individuals, families, or groups; or teaching and supervision of auxiliary personnel.

"The practice of nursing as a registered nurse" means the performance of professional services commensurate with the educational preparation and demonstrated competency of the individual having specialized knowledge, judgment, and skill based on the principles of the biological, physical, behavioral, and sociological sciences and nursing theory, whereby the individual shall be accountable and responsible to the consumer for the quality of nursing care rendered. The foregoing may include, but not be limited to, observation, assessment, development, implementation, and evaluation of a plan of care, health counseling, supervision and teaching of other personnel, and teaching of individuals, families, and groups in any stage of health or illness; or administration, supervision, coordination, delegation, and evaluation of nursing practice; or provisions of health care to the patient in collaboration with other members of the health care team as autonomous health care professionals providing the nursing component of health care; or utilization of reasonable judgment in carrying out prescribed medical orders of a licensed dentist, medical doctor, osteopath, or podiatrist licensed in accordance with chapter 448, 453, 460, or 463E or the orders of an advanced practice registered nurse recognized in accordance with this chapter.

§457-3 State board of nursing; appointment; term of office. The board shall consist of nine members as follows:

- (1) Six shall be registered nurses, one of whom shall be recognized as an advanced practice registered nurse in this State;
- (2) One shall be a licensed practical nurse; and
- (3) Two shall be public members.

Both nursing education and direct providers of nursing services shall be represented on the board. The term of office for members of the board shall be three years. No member shall be appointed to more than two consecutive terms or serve more than six consecutive years. Six members of the board shall be residents of the city and county of Honolulu and three shall be residents of counties other than the city and county of Honolulu.

§457-4 Qualifications of board members. (a) Each member of the board shall be a resident of this State.

Each registered nurse member of the board shall also:

- (1) Be a graduate of a state-accredited educational program to prepare for becoming a registered nurse and have at least a bachelor's degree in nursing but preferably a graduate degree in nursing;
 - (2) Have a current, unencumbered license as a registered nurse in the State; and
 - (3) Have at least five years of experience after graduation in the practice of nursing as a registered nurse and at least three years of active nursing experience as a registered nurse immediately preceding appointment or reappointment.
- (b) Each licensed practical nurse member of the board shall also:
- (1) Be a graduate of a state-accredited educational program to prepare for becoming a licensed practical nurse;
 - (2) Have a current, unencumbered license as a licensed practical nurse in the State; and
 - (3) Have at least five years of successful experience in the practice of nursing as a licensed practical nurse after graduation and at least three years of active nursing experience as a licensed practical nurse immediately preceding appointment or reappointment.
- (c) Each advanced practice registered nurse member of the board shall:
- (1) Have current, unencumbered recognition by the board as an advanced practice registered nurse; and
 - (2) Have at least five years of experience in the practice of nursing as an advanced practice registered nurse and at least three years of active nursing experience as an advanced practice registered nurse immediately preceding appointment or reappointment.

§457-5 Duties and powers of board. (a) In addition to any other powers and duties authorized by law, the board may:

- (1) Adopt, amend, or repeal rules, pursuant to chapter 91, not inconsistent with the law, as may be necessary to enable it to carry into effect this chapter, including the definition of the scope of practice of nursing and the delegation of nursing tasks based upon professional nursing standards, which include but are not limited to the standards set forth by national certifying bodies recognized by the board;
- (2) Prescribe standards for preparing persons for licensure as practical nurse or registered nurses and for recognition as advanced practice registered nurses under this chapter;
- (3) Conduct surveys of educational programs as it may deem necessary and practical;
- (4) Approve educational programs that meet the requirements of this chapter and the rules of the board;
- (5) Deny or withdraw approval of educational programs for failure to meet or maintain the standards prescribed in this chapter;

- (6) License qualified applicants by examination or endorsement, recognize advanced practice registered nurses, and renew, reinstate, and restore licenses and recognitions;
 - (7) Conduct hearings upon request of a denied applicant or upon charges calling for discipline of a licensee;
 - (8) Exercise the power to issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings;
 - (9) Cause the prosecution of all persons violating this chapter and to incur necessary expenses therefor;
 - (10) Keep a record of all its proceedings;
 - (11) Provide consultation, conduct conferences, forums, studies, and research on nursing education and practice;
 - (12) Communicate with national organizations that promote the improvement of the legal standards of practice of nursing for the protection of public health, safety, and welfare;
 - (13) Authorize the administration of examinations to eligible applicants for licensure as registered nurses or licensed practical nurses, or other examinations required by the board as designated in its rules;
 - (14) Employ, contract, and cooperate, to the extent allowable by law, with any board-approved organization in the preparation and grading of an appropriate nationally uniform examination; provided the board shall retain sole discretion and responsibility for determining the standard of successful completion of such an examination. When such a national examination is used, access to questions and answers shall be restricted by the board; and
 - (15) Develop and adopt rules as necessary relating to the practice of nursing in telehealth.
- (b) The board shall monitor and evaluate the scope of the practice of nursing in other states and make recommendations to the legislature, when deemed desirable, for appropriate amendment to the definitions under section 457-2 and any other provision of this chapter.

§457-6 REPEALED.

§457-7 Registered nurses; qualifications; licenses; fees; title; existing licensed nurses; verification of licenses; eligibility. (a) An applicant for a license to practice nursing as a registered nurse shall submit an application on a form prescribed by the board and shall provide written evidence that the applicant has completed a nursing program approved by the Hawaii board of nursing.

- (b) Licenses shall be granted either:
 - (1) By examination: The applicant shall be required to pass a written examination in nursing subjects as the board may determine. Upon successfully passing the examination, the board shall issue to the applicant a license to practice nursing as a registered nurse; or
 - (2) By endorsement: The board may issue a license to practice nursing as a registered nurse by endorsement to an applicant who has been licensed as a registered nurse under the laws of another state, territory, or foreign country if, in the opinion of the

board, the applicant meets the qualifications required of registered nurses in this State at the time of graduation. Pending verification of a valid, unencumbered license from another state, a temporary permit may be issued for employment with a Hawaii employer.

(c) The applicant applying for a license to practice as a registered nurse by examination shall pay application and examination fees to the board and a reexamination fee for each reexamination. Each applicant who successfully passes the examination shall pay a license fee. The applicant applying for a license to practice as a registered nurse by endorsement shall pay application and license fees.

(d) Any person who holds a license to practice nursing as a registered nurse in this State shall have the right to use the title "Registered Nurse" and the abbreviation "R.N.". No other person shall assume the title "nurse" or in any manner imply that the person is a nurse except as provided in sections 457-8 and 457-8.5 or use the abbreviation "R.N." or any other words, letters, signs, or devices to indicate that the person using the same is a registered nurse.

(e) Any person holding a license or certificate of registration to practice nursing as a registered nurse issued by the board which is valid on June 12, 1970, shall be deemed to be licensed as a registered nurse under this chapter.

(f) Any person who requests to take the licensing examination to qualify for a license in another state shall pay an examination proctoring fee to the board.

(g) Any person who requests verification of a registered nurse license to a nursing board of another state shall pay a license verification fee.

(h) Applicants applying for a license to practice as a registered nurse by examination shall submit to the board proof of eligibility. Applicants shall be eligible to apply for a license by examination if they:

- (1) Have graduated from a registered nursing program at an educational institution in the United States or any territory or possession under the jurisdiction of the United States and are qualified as determined by the board through rules adopted pursuant to chapter 91; or
- (2) Have graduated from a registered nursing program at an educational institution in a foreign jurisdiction, and have had their transcripts evaluated by professional evaluators designated by the board and are considered qualified as determined by the board through rules adopted pursuant to chapter 91.

Graduates of a board-approved registered nursing program at an educational institution in a foreign jurisdiction shall not be required to take the Commission on Graduates of Foreign Nursing Schools examination or an English proficiency examination.

(i) Unless determined to be insufficient or otherwise invalid by the board, all transcripts, diplomas, certificates of graduation, and other credentials submitted by any applicant in compliance with the application procedures for examination and licensure under this section shall be retained by the board and shall suffice as proof of graduation upon subsequent submittals of applications for reexamination by any applicant.

§457-8 Licensed practical nurse; qualifications; license; fees; title; existing licensed nurses; verification of licenses. (a) An applicant for a license to practice nursing as a licensed practical nurse shall submit an application on a form prescribed by the board and shall provide written evidence that the applicant has completed a licensed practical nurse program, or its equivalent, approved by the board, and holds a diploma or certificate therefrom.

- (b) Licenses shall be granted either:
 - (1) By examination: The applicant shall be required to pass a written examination in nursing subjects as the board may determine. Upon successfully passing the examination, the board shall issue to the applicant a license to practice nursing as a licensed practical nurse; or
 - (2) By endorsement: The board may issue a license to practice nursing as a licensed practical nurse by endorsement to any applicant who has been licensed as a licensed practical nurse, or a person entitled to perform similar services under a different title, under the laws of another state, territory, or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this State at the time of graduation. Pending verification of a valid license from another state, a temporary permit may be issued for employment with a Hawaii employer.
- (c) The applicant applying for a license to practice as a licensed practical nurse by examination shall pay application and examination fees to the board and a reexamination fee for each reexamination. Each applicant who successfully passes the examination shall pay a license fee. The applicant applying for a license to practice as a licensed practical nurse by endorsement shall pay application and license fees.
- (d) Any person who holds a license to practice nursing as a licensed practical nurse in this State shall have the right to use the title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person shall assume the title "nurse" or in any manner imply that the person is a nurse except as provided in sections 457-7 and 457-8.5 or use the abbreviation "L.P.N." or any other words, letters, signs, or devices to indicate that the person using the same is a licensed practical nurse.
- (e) Any person holding a license to practice nursing as a licensed practical nurse issued by the board which is valid on June 12, 1970, shall be deemed to be licensed as a licensed practical nurse under this chapter.
- (f) Any person who requests to take the licensing examination to qualify for a license in another state shall pay an examination proctoring fee to the board.
- (g) Any person who requests verification of a practical nurse license to a nursing board of another state shall pay a license verification fee.

§457-8.5 Advanced practice registered nurse; qualifications; recognition; endorsement; fees. (a) The board shall grant recognition as an advanced practice registered nurse provided the nurse has:

- (1) A current, unencumbered license as a registered nurse in this State;
- (2) An unencumbered license as a registered nurse in all other states in which the nurse has a current and active license;
- (3) An unencumbered recognition as an advanced practice registered nurse or similar designation in all other states in which the nurse has a current and active recognition as an advanced practice registered nurse;
- (4) A master's degree in nursing as specified in rules adopted by the board or a current certification for specialized and advanced nursing practice from a national certifying body recognized by the board; provided that certified nurse midwives shall have current certification from a national certifying body recognized by the board; and
- (5) Paid appropriate fees.

(b) The board shall grant recognition as an advanced practice registered nurse to a certified nurse midwife who meets the requirements of subsection (a).

(c) Any person who has a current, unencumbered recognition from the board to practice as an advanced practice registered nurse shall use the title “Advanced Practice Registered Nurse” and the abbreviation “A.P.R.N.”, or specialty title and abbreviation in accordance with rules adopted by the board. No other person shall assume the title “nurse” or in any manner imply that the person is a nurse except as defined in section 457-2 or as provided in sections 457-7 and 457-8 or use the abbreviation “A.P.R.N.” or any other words, letter, sign, or device to indicate that the person using the same is an advanced practice registered nurse. Nothing in this section shall preclude a registered nurse who is not recognized by the board as an advanced practice registered nurse and who is currently certified by a national certifying body from using another title designated by certification.

§457-8.6 Prescriptive authority for advanced practice registered nurses. (a) The board shall grant prescriptive authority to qualified advanced practice registered nurses and shall designate the requirements for advanced nursing practice related to prescriptive authority. The board of medical examiners shall submit an annual report of the formularies to the board of nursing.

§457-9 Renewal of license. (a) The license of every person licensed under this chapter shall expire on June 30 of every odd-numbered year and shall be renewed biennially, except as provided in this section. Biennially in each odd-numbered year, the board shall make available an application for renewal of license before the deadline set forth by the board to every person to whom a license was issued or renewed during the biennium. The applicant shall complete the application and submit it to the board with a renewal fee and any required documents on or before the deadline set forth by the board. The applicant shall provide documents from proper agencies or parties relating to any disciplinary action taken or pending in this State or any other state in the United States or any territory or possession under the jurisdiction of the United States within the two years prior to application for renewal of license. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a certificate of renewal for the biennium expiring two years hence on the deadline set forth by the board. The renewal shall render the holder thereof a legal practitioner of nursing for the period stated on the renewal form.

(b) Any licensee who fails to renew a license as provided in subsection (a) but continues to practice shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of this chapter; provided that the person's license may be restored by the board on satisfactory explanation of the failure to renew and on payment of the renewal fee and a penalty fee.

A nurse who fails to renew a license as provided in subsection (a) and does not engage in nursing in the State for one year after the license has been forfeited shall not be required to pay the renewal or penalty fee; provided that the nurse remains inactive during that year. Should the nurse wish to resume nursing at some future time, the nurse shall notify the board and remit the renewal fee and application form as provided in subsection (a).

§457-10 REPEALED.

§457-11 Nursing education programs. (a) An institution desiring to conduct a nursing education program to prepare registered or licensed practical nurses shall apply to the board and submit evidence that:

(1) It is prepared to carry out a program in undergraduate nursing education or a program in the training of nurses as licensed practical nurses, as the case may be; and

(2) It is prepared to meet the standards as shall be established by law and by the board.

(b) A survey of the institution and its undergraduate or practical nursing program shall be made by the executive secretary or other authorized employee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an approved nursing education program are met, the program shall be approved as a nursing education program for registered or licensed practical nurses.

(c) The approval standards shall include qualifications necessary for faculty members of the nursing education program; provided that the standards shall not include a requirement that each individual faculty member receive approval of the board prior to teaching in the program. The qualifications shall be reasonable and relevant to the proper teaching of the practice of nursing. In establishing the qualifications, the board shall consult with the University of Hawaii.

(d) From time to time as deemed necessary by the board, it shall be the duty of the board, through its authorized representative, to survey nursing education programs in the State. Written reports of the surveys shall be submitted to the board. If the board determines that any approved nursing education program is not maintaining the standards required by law and by the board, notice thereof in writing specifying the discrepancies shall be immediately given to the institution conducting the program. A program which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after a hearing held in conformance with chapter 91.

§457-12 Discipline; grounds; proceedings; hearings. (a) In addition to any other actions authorized by law, the board shall have the power to deny, revoke, limit, or suspend any license to practice nursing as a registered nurse or as a licensed practical nurse applied for or issued by the board in accordance with this chapter, and to fine or to otherwise discipline a licensee for any cause authorized by law, including but not limited to the following:

- (1) Fraud or deceit in procuring or attempting to procure a license to practice nursing as a registered nurse or as a licensed practical nurse;
 - (2) Gross immorality;
 - (3) Unfitness or incompetence by reason of negligence, habits, or other causes;
 - (4) Habitual intemperance, addiction to, or dependency on alcohol or other habit-forming substances;
 - (5) Mental incompetence;
 - (6) Unprofessional conduct as defined by the board in accordance with its own rules;
 - (7) Wilful or repeated violation of any of the provisions of this chapter or any rule adopted by the board;
 - (8) Revocation, suspension, limitation, or other disciplinary action by another state of a nursing license for reasons as provided in this section;
 - (9) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of a nurse, notwithstanding any statutory provision to the contrary;
 - (10) Failure to report to the board any disciplinary action taken against the licensee in another jurisdiction within thirty days after the disciplinary action becomes final;
 - (11) Submitting to or filing with the board any notice, statement, or other document required under this chapter, which is false or untrue or contains any material misstatement of fact; or
 - (12) Violation of the conditions or limitations upon which any license is issued.
- (b) In any proceeding to discipline a licensee or for the suspension, limitation, or revocation of a license to practice nursing, the licensee sought to be disciplined or the person whose license is sought to be suspended, limited, or revoked shall be given notice and opportunity for hearing in conformity with chapter 91. Any person whose application for a license has been denied shall be given notice and the opportunity for a hearing pursuant to chapter 91.
- (c) Any fine imposed by the board after a hearing in accordance with chapter 91 shall be no less than \$100 and no more than \$1,000 for each violation.
- (d) The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this State.

§457-13 Exceptions. This chapter does not prohibit:

- (1) The furnishing of nursing assistance in an emergency;
- (2) The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board;
- (3) The practice of nursing under a nonrenewable permit by:
 - (A) A graduate of; or
 - (B) An applicant who has provided proof that the applicant has completed the entire educational curriculum required for graduation for a nursing license from

a school which is in or under the jurisdiction of the United States, and whose accreditation is recognized by the board; provided that following completion of (A) or (B), the candidate takes the first licensing examination scheduled by any board of nursing recognized by the board and has submitted to the board an application for a license to practice nursing in this State; and provided further that the permit shall be valid for three months or until the results of the licensing examination are received by the board;

- (4) The practice of any legally qualified nurse of another state who is employed by the United States or any bureau, division, or agency thereof, while in the discharge of the nurse's official duties;
- (5) The practice of nursing in connection with healing by prayer or spiritual means alone in accordance with the tenets and practice of any well recognized church or religious denomination, provided that no person practicing such nursing claims to practice as a registered nurse or a licensed practical nurse; or
- (6) The administration of oral and topical medication and in emergency situations, other premeasured medication, by school health aides as provided in section 321-242.

§457-14 Violations of chapter; penalties. It shall be a misdemeanor for any person, including any corporation, association, or individual to:

- (1) Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record or aid or abet therein; or
- (2) Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently signed or issued unlawfully or under fraudulent representation; or
- (3) Practice nursing as a registered or as a licensed practical nurse unless licensed to practice under this chapter; or
- (4) Use in connection with the person's name any designation tending to imply that the person is a registered nurse or a licensed practical nurse unless licensed to practice under this chapter; or
- (5) Practice nursing as a registered nurse or as a licensed practical nurse during the time the person's license issued under this chapter is suspended or revoked; or
- (6) Conduct a nursing education program not accredited by the board to prepare for a registered nurse or licensed practical nurse unless the program has been accredited by the board; or
- (7) Otherwise violate any provisions of this chapter.

Any of these misdemeanors shall be punishable by a fine of not more than \$500 for a first offense. Each subsequent offense shall be punishable by a fine of not more than \$1,000 or imprisoned not more than one year, or both.

§457-15 Injunctive relief. The practice of nursing as a registered nurse or as a licensed practical nurse by any person who has not been issued a license under this chapter or whose license has been suspended or revoked or has expired is declared to be inimical to the public welfare and to constitute a public nuisance. The board of nursing may, through the attorney general, apply for an injunction in any court of competent jurisdiction to enjoin any person who has not been issued a

license or whose license has been suspended or revoked or expired, from practicing nursing as a registered nurse or as a licensed practical nurse; and, upon the filing of a verified petition in court, the court or any judge thereof, if satisfied by affidavit, or otherwise, that the person is or has been practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license, or after the person's license has been suspended or revoked or expired, may issue a temporary injunction, without notice or bond, enjoining the defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. A copy of the verified petition shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it be established that the defendant has been or is practicing nursing as a registered nurse or as a licensed practical nurse without having been issued a license or has been or is practicing nursing as a registered nurse or as a licensed practical nurse after the defendant's license has been revoked, or expired, the court, or any judge thereof, may enter a decree perpetually enjoining the defendant from further practicing nursing as a registered nurse or as a licensed practical nurse. In case of violation of any injunction issued under this section, the court, or any judge thereof, may summarily try and punish the offender for contempt of court. The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

§457-16 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are severable.